

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

Title 76, Chapter 5, Part 7

(Drafted by Esther Chelsea-McCarty)

LONG TITLE

General Description:

This bill

Highlighted Provisions:

This bill:

►

Money Appropriated in this Bill:

None

Other Special Clauses:

None

List of sections affected:

AMENDS:

76-5-701

76-5-702

76-5-703

76-5-704

Statutory text:

Part 7. Female Genital Mutilation

76-5-701. Female genital mutilation definition.

(1) As used in this part, ~~[female genital mutilation]~~ "female genital mutilation" means any procedure that involves partial or total removal of the external female genitalia, or any harmful procedure to the female genitalia, including:

(a) clitoridectomy;

(b) the partial or total removal of the clitoris or the prepuce;

(c) excision or the partial or total removal of the clitoris and the labia minora, with or

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31 without excision of the labia majora;

32 (d) infibulation or the narrowing of the vaginal orifice with the creation of a covering
33 seal by cutting and appositioning the labia minora or the labia majora, with or without
34 excision of the clitoris;

35 (e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or

36 (f) any other actions intended to alter the structure or function of the female genitalia
37 for non-medical reasons.

38 (2) Female genital mutilation is considered a form of child abuse for mandatory
39 reporting under Section 62A-4a-403.

40 41 **76-5-702. Prohibition on female genital mutilation -- Exceptions.**

42 ~~[(1) It is a second degree felony for any person to:]~~

43 (1) Terms defined in Sections 76-1-101.5 and 76-5-701 apply to this section.

44 (2) An actor commits female genital mutilation if the actor:

45 (a) ~~[perform]~~ performs a procedure described in Section 76-5-701 on a female under
46 18 years ~~[of age]~~ old;

47 (b) ~~[give]~~ gives permission for or ~~[permit]~~ permits a procedure described in Section
48 76-5-701 to be performed on a female under 18 years ~~[of age]~~ old; or

49 (c) ~~[remove or cause, permit, or facilitate]~~ removes, causes, permits, or facilitates the
50 removal of a female under 18 years ~~[of age]~~ old from this state for the purpose of facilitating
51 the performance of a procedure described in Section 76-5-701 on the female.

52 (3) A violation of Subsection (2) is a second degree felony.

53 ~~[(2)]~~ (4) It is not a defense to ~~[female genital mutilation]~~ this section that the
54 conduct described in Section 76-5-701 is required as a matter of religion, custom, ritual, or
55 standard practice, or that the individual on whom it is performed or the individual's parent or
56 guardian consented to the procedure.

57 ~~[(3)]~~ (5) A surgical procedure is not a violation of ~~[Section 76-5-701]~~ this section if
58 the procedure is performed by a physician licensed as a medical professional in the place it
59 is performed and the procedure is:

60 (a) medically advisable;

61 (b) necessary to preserve or protect the physical health of the ~~[person]~~ individual on
62 whom it is performed; or

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63 (c) requested for sex reassignment surgery by the ~~[person]~~ individual on whom it is
64 performed.

65 ~~[(4)]~~ (6) ~~[A]~~ The license of any medical professional licensed in accordance with
66 Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act,
67 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah
68 Physician Assistant Act, who is convicted of a violation of this section shall ~~[have their~~
69 license] be permanently revoked by the appropriate licensing board.

70

71 **76-5-703. Community Education Program.**

72 (1) The director of the Department of Health shall develop a community education
73 program regarding female genital mutilation.

74 (2) The program shall include:

75 (a) education, prevention, and outreach materials regarding the health risks and
76 emotional trauma inflicted by the practice of female genital mutilation;

77 (b) ways to develop and disseminate information regarding recognizing the risk
78 factors associated with female genital mutilation; and

79 (c) training materials for law enforcement, teachers, and others who are mandated
80 reporters under Section 62A-4a-403, encompassing:

81 (i) risk factors associated with female genital mutilation;

82 (ii) signs that an individual may be a victim of female genital mutilation;

83 (iii) best practices for responses to victims of female genital mutilation; and

84 (iv) the criminal penalties associated with the facilitation or commission of female
85 genital mutilation.

86

87 **76-5-704. Civil cause of action.**

88 (1) ~~[A victim of]~~ An individual upon whom female genital mutilation was performed
89 may bring a civil action in any court of competent jurisdiction for female genital mutilation any
90 time within 10 years of:

91 (a) the procedure being performed; or

92 (b) the victim's 18th birthday.

93 (2) The court may award actual, compensatory, and punitive damages, and any other
94 appropriate relief.

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95 (3) A prevailing plaintiff shall be awarded attorney fees and costs.

96 (4) Treble damages may be awarded if the plaintiff proves the defendant's acts were
97 willful and malicious.

98 (5) If a health care provider is charged and prosecuted for a violation of Section
99 76-5-702, Section 78B-3-416 may not apply to an action against the health care provider
100 under this section.